

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Wurtzel	Team: Squad #2	CCRB Case #: 201502922	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/16/2015 7:30 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 10/16/2016	EO SOL 10/16/2016	
Date/Time CV Reported Fri, 04/17/2015 1:33 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/17/2015 1:33 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Erik Worobey	00000	932229	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Felicia Simon	27649	929459	067 PCT
2. DTS Valrie Beasley	01835	892768	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Erik Worobey	Abuse: Captain Erik Worobey entered and searched § 87(2)(b)	§ 87(2)(b)

### Case Summary

On April 16, 2015, at 7:30 a.m., § 87(2)(b) opened the door after hearing the doorbell being rung multiple times. Captain Erik Worobey, PO Felicia Simon and Det. Valrie Beasley of the 67<sup>th</sup> Precinct were in the hallway. The officers stated that they were looking for § 87(2)(b), who was the father of § 87(2)(b)'s child. § 87(2)(b) stated that the officers could not enter without a warrant. At this time, Captain Worobey entered the apartment and proceeded to walk through the apartment and looked into the bedroom of § 87(2)(b)'s mother, § 87(2)(b) and § 87(2)(b) bedroom (**Allegation A**). § 87(2)(b) was not in the apartment and the officers left shortly after (encl. 4A-5F). There were no arrests made or summonses issued.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation for this case, § 87(2)(b).  
§ 87(2)(b) has not filed a Notice of Claim for this incident (encl. 11A). § 87(2)(b)  
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (encl. 2A).
- Captain Erik Worobey has been a member of the NYPD for 12 years, has had 30 previous CCRB allegations involving 13 cases and no substantiated allegations. § 87(2)(g)  
(encl. 3A-C).

### Findings and Recommendations

#### Allegation A – Abuse of Authority: Captain Erik Worobey entered and searched

§ 87(2)(b)  
It is undisputed that Captain Worobey entered § 87(2)(b)'s apartment without a warrant. § 87(2)(b) alleged that Captain Worobey entered her apartment and walked into each room, claiming that he had a warrant that permitted him to look for § 87(2)(b) at the location. § 87(2)(b) stated that she attempted to physically obstruct his movement by standing in front of him and pushing him. § 87(2)(b) confirmed that Captain Worobey had informed her that he possessed an arrest warrant for § 87(2)(b) § 87(2)(b)'s daughter, § 87(2)(b) confirmed that Captain Worobey entered the apartment and searched each room but stated that Captain Worobey admitted to not having a warrant.

Captain Worobey stated that he did not have a warrant at the time of entry into § 87(2)(b)'s apartment and confirmed that the occupants of the apartment did not ask him to enter and physically obstructed his movement through the apartment. Captain Worobey stated that his reason for entering the apartment was out of concern for the safety of the occupants, for § 87(2)(b)'s own safety and out of a desire to remove § 87(2)(b) to a hospital, as requested by his father, § 87(2)(b). Captain Worobey stated that § 87(2)(b) had violently confronted § 87(2)(b) with a decorative sword from § 87(2)(b)'s apartment on March 30, 2015, but that § 87(2)(b) had not been in contact with him on April 16, 2015. § 87(2)(b)'s suggestion that § 87(2)(b) could be at § 87(2)(b) with § 87(2)(b) who is the mother of his child, was the reason for Captain Worobey arriving at the location on the incident date. § 87(2)(b) did not know for certain where his son was at that time.

Captain Worobey had no specific reason to believe that § 87(2)(b) was armed and he was not aware of an infant child in § 87(2)(b)'s apartment prior to his entry. Captain Worobey did not call for additional units and went directly to § 87(2)(b)'s apartment from § 87(2)(b) which is a distance of approximately two miles (encl. 8A-C). An I-card existed for § 87(2)(b) at the time of the incident, in relation to the March 30, 2015, altercation. The I-card stated that § 87(2)(b) was

wanted for menacing with a weapon in the second degree (encl. 9A). Captain Worobey stated that he was aware of the I-card but did not intend to enforce at the time that he entered § 87(2)(b)'s home.

The courts have established the warrantless entries into private homes are presumed unconstitutional. Exceptions to this rule include consent, hot pursuit, exigent circumstances, as established in People v. McBride, 14 N.Y.3d 440 (2010), and an emergency situation, as established in People v. Dallas, 8 N.Y.3d 890 (2007). In regards to emergency circumstances, the courts utilize a three part test: (1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life and property; (2) The search must not be primarily motivated by intent to arrest and seize evidence; (3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area being searched. Dallas, at 891 (encl. 1A-B). In regards to the exigent circumstances exemption, the court utilizes a six-part test: (1) the gravity or violent nature of the crime with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause, to believe that the suspect committed the crime; (4) strong reason to believe the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. McBride, at 14 (encl. 1C-I).

§ 87(2)(g)

§ 87(2)(g)

Pod: 2

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date